

REMARKS

Claims 1-7, 10-12, 16-22, 25-27 and 31-59 are pending. Claims 1, 4, 16 and 19 are currently amended. No new matter has been added by way of these amendments.

The Office Action Was Improperly Made Final

Applicant respectfully submits the Office Action was improperly made final. Applicant previously requested an interview and submitted an Applicant Initiated Interview Request form concurrent with filing the Response Amendment on April 27, 2005. The Examiner made the Office Action final without scheduling or conducting an interview with the Applicant, to which Applicant is entitled. Applicant nevertheless has concurrently filed a Request for Continued Examination. In the event the Examiner finds the application is not in a condition for allowance after considering this amendment, Applicant respectfully requests that the Examiner schedule an interview with the Applicant to discuss the allowability of the claims over the cited references.

The Claims Are Enabled

The Examiner rejected claims 20-21, 50-52, and 55-56 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully traverses the Examiner's rejections. The Examiner appears to contend that the specification does not disclose details on "a reference to a connection endpoint."

Applicant respectfully submits that one of skill in the art with knowledge of network communication protocols such as TCP/IP, after reviewing the specification as a whole, would know how to practice the subject matter of the claims, including the details on the reference to a connection endpoint. In particular, Applicant refers the Examiner to Figures 3, 5, 8, 9, and 11-14, and the accompanying description in the specification as originally filed at pages 8, 16-18, 20-25, 29-40, 45-46, and 50-54. Applicant notes that Figure 12 illustrates tables of reference information stored in the memory of the iNIC illustrated in Figure 3. See page 17, lines 22-25.

The Claims Are Sufficiently Definite

The Examiner rejected claims 1-3, 16-18, 31-33 and 40-42 under 35 U.S.C. § 112, second paragraph, as indefinite. Applicant respectfully traverses the Examiner's rejections. The Examiner contends "migrate the data structure associated with the connection," is indefinite because it is unclear as to where the data structure is migrated. While Applicant contends the claims were sufficiently definite, Applicant has amended claims 1 and 16 to address the Examiner's concerns. Claims 2-3 and 31-33 depend from claim 1 and claims 17-18 and 40-42 depend from claim 16. Accordingly, Applicant submits that claims 1-3, 16-18, 31-33 and 40-42 satisfy the requirements of the second paragraph of 35 U.S.C. § 112.

The Claims Are Not Obvious Over the Admitted Prior Art In View of Attanasio

The Examiner rejected claims 1-7, 10-12, 16-22, 25-27 and 31-59 under 35 U.S.C. § 103(a) as obvious over admitted prior art in view of U.S. Patent No. 5,918,017 issued to Attanasio, et al. (hereinafter Attanasio). Applicant respectfully traverses the Examiner's rejections.

As an initial matter, the admitted prior art is not an appropriate primary reference. The admitted prior art to which the Examiner points does not select a server to service a client request, as the Examiner admits. Further, the admitted prior art pointed to by the Examiner does not address load balancing at all, to which "selecting a computing device to service the client" is directed. Thus, Applicant respectfully submits it is not an appropriate primary reference.

The Examiner concedes that the admitted prior art does not teach, suggest or motivate a first computing device configured to select a device to service a client, and, when the first computing device is selected to service the client, bind a data structure associated with a connection to the client to an application of the first computing device. The Examiner contends this teaching is supplied by Attanasio. Applicant respectfully submits that Attanasio does not teach, suggest or motivate the teachings missing from the admitted prior art, and in fact teaches away from the subject matter of the claims.

Attanasio describes an intelligent router, and thus is no better a reference than the intelligent routers described in the specification. The Examiner does not identify a particular

device in Attanasio that corresponds to the claimed computing device, but appears to contend that the gateway 109 of Attanasio somehow corresponds to the claimed device. The Examiner correctly notes that Attanasio describes a way to eliminate half of the traffic seen by the gateway 109, as compared to some prior art solutions. See Attanasio, col. 4, lines 55-63. Nevertheless, in Attanasio all client requests go through the gateway 109 and Attanasio passes all client requests to other nodes (*i.e.*, node 107). See *Id.* Thus, the gateway 109 of Attanasio does not have “an application” as recited, and data structures associated with a connection to a client are not bound to an application of the gateway 109. Accordingly, gateway 109 cannot possibly teach, suggest, or motivate the computing device or server recited by Applicant’s claims.

Turning to the language of the claims, each of the independent claims recites aspects nowhere found in the gateway 109 of Attanasio. Independent claim 1, as amended, recites, a “a first computing device configured to ... bind the data structure ... to an application of the first computing device.” Independent claims 4, 10, 19 and 25, as amended, recite, “an application of the first computing device.” Independent claim 16, as amended, recites, “to an application of the first server.” Independent claim 49 recites, “controlling a processor of a first server ... a connection endpoint bound to ... an application of the first server,” and independent claim 53 recites, “controlling a processor of a first server ... an application of the first server.” Independent claim 58 recites “[a] first server, comprising ... a module configured to selectively bind the data structure associated with the connection to the client to an application of the first server.” Gateway 109 of Attanasio does not have “an application” as recited, and cannot thus be compared to Applicant’s claimed computing device/server. Thus, each of the independent claims is not rendered obvious by Attanasio, alone or in combination with Applicant’s described prior art.

Attanasio, in fact, teaches away from the subject matter of the claims. This is shown by the backup gateway of Figure 10 of Attanasio. The connection of the backup gateway 1030 of Attanasio to the network 120 is inactive unless the primary gateway 1050 fails. In the event of the failure of the primary gateway 1050, the backup gateway 1030 deactivates the connection of the primary gateway 1050 to the network before activating its own connection to the network 120. See Figure 10 and col. 9, lines 10-38. If Attanasio contemplated using the

gateways 1030, 1050 as client servers, which it does not, then the connection of the backup gateway 1030 to the network would be active when it was not being used as a gateway, so the backup gateway 1030 could send response packets to the clients.

To the extent the Examiner contends the admitted prior art teaches, suggests or motivates forwarding a reference to an associated connection endpoint (*see, e.g.*, the rejection of claim 5 on page 9 of the Final Office Action), Applicant respectfully traverses the Examiner's contention. There is no suggestion in the admitted prior art the Examiner cites of forwarding a reference associated with a connection endpoint.

In addition, with regard to claims 4-6, 19-21, 34-36, 43-45, 58 and 59, Attanasio does not teach, suggest or motivate a first computing device comprising a network protocol stack that is external to the operating system of the first computing device. The Examiner points to col. 4, lines 31-54 and col. 5, lines 18-22 of Attanasio. The cited portions of Attanasio do not discuss a protocol stack, whether or not the protocol stack is separate from the operating system of the gateway 109. The cited portions merely indicate that Attanasio can be configured to avoid re-writing packet headers and that the gateway 109 forwards unchanged packets for existing connections to the associated node (*i.e.*, node 107) other than the gateway 109 in certain circumstances. Thus, claims 4-6, 19-21, 34-36, 43-45, 58 and 59 are not rendered obvious over the admitted prior art in view of Attanasio for the additional reason that the admitted prior art, alone or in combination with Attanasio, does not teach, suggest or motivate a network protocol stack external to the operating system of a first computing device.

Similarly, with regard to claims 10-12, 25-27, 37-39, and 53-57, there is no teaching, suggestion or motivation in the admitted prior art or in Attanasio of disassociating an application from a data structure and outputting a reference to the data structure. The Examiner points to unrelated portions of Attanasio as though they were describing a single process. Specifically, the Examiner points to col. 5, lines 10-13, which pertains to purging expired connection information, and col. 7, lines 45-62, which pertains to measuring server delays for use in deciding how to handle new connections. The cited portions of Attanasio do not teach, motivate or suggest disassociating an application from a data structure and outputting a reference to the data structure. Thus, claims 10-12, 25-27, 37-39 and 53-57 are not rendered obvious over

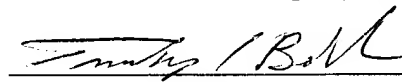
the admitted prior art in view of Attanasio for the additional reason that the admitted prior art, alone or in combination with Attanasio, does not teach, suggest or motivate disassociating an application from a data structure and outputting a reference to the data structure, as recited.

Therefore, for these reasons and others, since Attanasio does not teach, suggest, or motivate one or more elements or acts of each of Applicant's claims 1-7, 10-12, 16-22, 25-27 and 31-59, Applicant's claims are not anticipated or rendered obvious by the admitted prior art in view of Attanasio. In the event the Examiner disagrees or finds minor informalities, Applicant respectfully requests a telephone interview to discuss the Examiner's issues and to expeditiously resolve prosecution of this application. Accompanying this Amendment is Applicant's Second Request for Telephone Interview in the event the Examiner does not agree that the claims are allowable over the cited references.

In closing, Applicant respectfully requests the Examiner to enter these amendments and to reconsider this application and its early allowance. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

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TLB:rr

Enclosures:

Second Applicant Initiated Interview Request Form  
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